

Judge Robb, cont.

Foundation and a Senior Distinguished Fellow of the Indianapolis Bar Foundation. She is a frequent speaker on legal topics for attorneys, other judges, and professional, civic and community organizations.

Judge Robb was Founding Chair of Governor Bowen's Commission on the Status of Women; was a recipient of a 1993 Indiana State Bar Association's "Celebrating 100 Years of Women in the Legal Profession" award; the 2001 Maynard K. Hine distinguished alumni award given in recognition of support and service to IUPUI and Indiana University; the 2004 Bernadette Perham "Indiana Women of Achievement" Award, bestowed by Ball State University to honor of one of their outstanding professors; the 2005 Indiana State Bar Association's Women in the Law Recognition Award; the 2006 Tippecanoe County YWCA Salute to Women "Women of Distinction" Award; the 2007 Warren G. Harding High School, Warren, Ohio, Distinguished Alumni Award; the 2010 Indiana University Alumni Association President's Award, a 2010 Indiana Lawyer Distinguished Barrister Award, the 2011 Indianapolis Bar Association Women and the Law Committee's Antoinette Dakin Leach Award and the 2011 David Hamacher Award from the Appellate Practice Section of the Indiana State Bar Association.

Judge Robb chairs the Supreme Court Task Force on Family Courts and is involved in several projects to benefit the Indiana legal system. She also chaired the Supreme Court task force for the development of Trial Court Local Rules, has also served as a member of the Indiana Board of Law Examiners, the Governance Committee of the Supreme Court IOLTA (Interest on Lawyer Trust Account) Committee; the Federal Advisory Committee on Local Rules for the Federal Court for the Northern District of Indiana; and the Federal Advisory Committee for the Expediting of Federal Litigation.

Judge Robb authored "Reflections of Baseball, Life and the Law" in the Indiana State Bar Association's journal, *Res Gestae* and "Running Bases, Winning Cases: Why the Grand Old Game of Baseball is like the legal

profession" in the ABA's journal. She also authored a chapter on Supreme Court Justice Leonard Hackney in, *Indiana Supreme Court Justices*, and co-authored a chapter, "From Juvenile Courts to Family Courts," in *Essays on Indiana Legal History*.

In addition, she serves on the ABA Committee that accredits law schools and Chaired the 2010 ABA's Appellate Judges Council - Appellate Judges Education Institute's national Summit for Judges, lawyers and Staff attorneys. Chief Judge Robb is an elected member of the American Law Institute (ALI).

Judge Robb was retained on the Court of Appeals in 2000 and 2010, is married to a professor at Purdue University. Their son, a graduate of the United States Naval Academy, is a Lieutenant on active duty in the United States Navy.

Judge Riley, cont.

al legal experience. In 2008, she co-founded the Legal Aid Centre of Eldoret, Kenya (LACE), which provides legal access to justice in the AMPATH medical center for its HIV/AIDS patients.

In 2011, Judge Riley traveled with the Washington, D.C.-based International Judicial Academy to The Hague, Netherlands, to observe the International Criminal Court and two International Criminal Tribunals that are hearing cases from Sierra Leone and the former Yugoslavia.

In 2012 she participated in the 3rd Sino-U.S. Law Conference, which was held in Beijing at the National Judges College of the People's Republic of China, which oversees all aspects of that country's judicial training, placement and promotion.

Judge Riley is the mother of two sons. She was retained on the Court by election in 1996 and 2006.

Judge Bradford, cont.

duction of juvenile pretrial incarceration in Marion County that is now a statewide model.

Before joining the bench, he was recruited by Marion County Prosecutor Scott Newman as Chief Trial Deputy, in which capacity he managed a staff of more than 100 attorneys for two years. He also served five years as an Assistant United States Attor-

ney for the Southern District of Indiana, where he prosecuted major felony drug cases under United States Attorney Deborah J. Daniels. He was in private legal practice from 1986 to 1991.

A native Hoosier, Judge Bradford earned a B.A. in labor relations and personnel management from Indiana University-Bloomington in 1982 and his J.D. from Indiana University School of Law-Indianapolis in 1986. He is the Court of Appeals' liaison to the Indiana Judges Criminal Instructions Committee, which provides guidance to judges on jury instructions in criminal cases, and he is a former member of both the Indiana Judges Criminal Policy Committee and the Board of Directors of the Indiana State Judicial Conference.

Judge Bradford is a Distinguished Senior Fellow of the Indianapolis Bar Association and a member of the Marion County Bar Association, Kosciusko County Bar Association, Indiana State Bar Association, American Bar Association, and the Sagamore Inn of Courts. He has taught Indiana Continuing Legal Education Foundation trial practice seminars for more than 10 years and also teaches Forensic Science and the Law at Indiana University-Purdue University Indianapolis, where he is an adjunct instructor.

Judge Bradford is well versed in contemporary technology and media issues, having served on the Judicial Technology and Automation Committee (JTAC), helping to draft the state judiciary's policies on technology and case management. He frequently lectures on a wide range of legal topics and in 2012 will serve as a Vice President of the Indianapolis Bar Association and on the Indiana State Bar Association Appellate Practice Section Executive Committee.

Judge Bradford is a former director of the John P. Craine House in Indianapolis, a residential alternative to incarceration for women offenders with preschool-aged children. He is a former advisory board member of the Lawrence Youth Football League and has long been active at Castleton United Methodist Church.

He and his wife, Sam, a full-day kindergarten teacher, have five adult children.

COURT OF APPEALS OF INDIANA ORAL ARGUMENT AT A GLANCE

IVY TECH LAFAYETTE

Robey v. State

CRIMINAL LAW ISSUES:

- Whether Appellant's habitual offender admission lacked sufficient factual basis;
- Whether the trial court erred by denying Appellant's motion to correct error;
- Whether impermissible vouching testimony was admitted;
- Whether the prosecutor improperly vouched for a witness.

ORAL ARGUMENT:

Tuesday, April 8, 2014
10 a.m.

APPEAL FROM:

Clinton Circuit Court
The Honorable
Bradley K. Mohler, Judge

Synopsis: *Case No. 12A02-1306-CR-502*

A.P. was born on Aug. 22, 2003, and is the biological daughter of Robey. On one occasion in 2010, after A.P. had started first grade but before Halloween, she was spending the night with Robey at Robey's brother's house. The two were sleeping on the floor when Robey had A.P. touch his "thing" with her hand. After asking A.P. if she wanted to "lick it[.]" Robey placed his hand on the back of her neck and forced her to fellate him.

On a second occasion that was still before Halloween, Robey and A.P. were watching television together in their living room. Robey began to fondle his penis on top of his clothes and then rubbed A.P.'s privates on top of her clothes. A.P. slapped Robey's hand, he stopped, and she fell

asleep.

A.P. awoke to find Robey's "thing" in her "private." When A.P. protested, Robey said, "It doesn't matter. I'm your father." When A.P. told Robey that it hurt, he said that it would only hurt a minute. At some point Robey also inserted some fingers into A.P.'s vagina. Robey then flipped A.P. over and inserted his penis into her "butt." Robey masturbated himself between A.P.'s legs until "he was shaking ... and then white stuff came out."

Eventually, the State charged Robey with four counts of Class A felony child molesting, two counts of Class C felony child molesting, and Class A misdemeanor marijuana possession.

The State also alleged that Robey was a habitual offender and a habitual substance offender. Prior to trial,

Robey pled guilty to the marijuana charge.

On Jan. 24, 2013, a jury found Robey guilty of all child molesting counts, and Robey admitted to being a habitual offender and a habitual substance offender. On Feb. 25, 2013, Robey filed a motion to correct error, based on alleged juror misconduct. On April 25, 2013, the trial court denied Robey's motion to correct error.

Robey contends that his habitual offender admission lacked a sufficient factual basis; that the trial court erred in denying his motion to correct error on the basis of alleged juror misconduct; that he was denied a fair trial by the admission of what he alleges was impermissible vouching testimony; and that the prosecutor committed misconduct by improperly vouching for a witness.

Today’s Attorneys

For the Appellant

Steven Knecht grew up on his family’s farm in southern Indiana. He graduated with honors from the University of Notre Dame in 1980 with a major in government, and from Indiana University School of Law-Bloomington in 1983. He has been in private practice in Lafayette since 1983 and became a partner in the firm of Vonderheide and Knecht in 1992. As an appellate practitioner, Mr. Knecht has previously argued cases before the Court of Appeals of Indiana and the Indiana Supreme Court. In his spare time, Mr. Knecht has been involved in many community activities, such as serving on the boards of the Friends of the Columbian Park Zoo as well as the Almost Home Humane Society, where he tries (not always successfully) to avoid bringing home any more pets. An avid runner, he has completed 10 full marathons and 44 half marathons since 2005.

For the Appellee

Eric P. Babbs has been employed with the Office of the Indiana Attorney General since 2011 as a Deputy Attorney General in the Criminal Appeals Section. Mr. Babbs was born and raised in West Lafayette, IN and graduated from Yale University in 2005, majoring in History. He earned his law degree from Notre Dame Law School in 2008, where he was a member of the Appellate Moot Court Board and the Notre Dame Journal of Law, Ethics, & Public Policy. After graduating from law school and being admitted to practice law in Indiana, Mr. Babbs worked as a judicial law clerk at the Court of Appeals of Indiana for two years. Mr. Babbs resides in Indianapolis with his wife and their three children.

What happens after oral argument?

After oral argument, a designated “writing judge” drafts an opinion for the others to consider. Generally, opinions affirm or reverse lower court rulings in whole. But some affirm in part, reverse in part, or both. Not infrequently, the opinion instructs the trial court about next appropriate steps.

Many opinions are unanimous, although non-unanimous opinions (2-1) are not uncommon. Judges sometimes write separate concurring or dissenting opinions that emphasize different points of law or facts than the main opinion.

Parties can appeal Court of Appeals decisions to the Indiana Supreme Court by filing a petition to transfer. But transfer is not automatic; the Supreme Court can grant or deny transfer with or without giving a reason.

If the petition is denied, the Appeals Court decision stands.

Today’s Panel of Judges

*The Honorable
Margret G. Robb
(Tippecanoe County)*

Margret G. Robb was appointed to the Court of Appeals of Indiana in July 1998 by Governor Frank O’Ban-non. She holds a B.S. and an M.S. in Business Economics from Purdue University, a Magna Cum Laude J.D. from Indiana University Robert H. McKinney School of Law and is a graduate of the Graduate Program for Indiana Judges. In 2011 she began a three year term as **Chief Judge**; the first woman to hold that position in the Court’s more than 100 year history.

Prior to her appointment to the Court, Judge Robb was, for 20 years, engaged in the general practice of law in Lafayette, and served as a Chapter 11, 12 and a standing Chapter 7 Bankruptcy trustee for the Northern District of Indiana. She was a registered family and civil mediator and served as a Tippecanoe County Deputy Public Defender.

She has been an officer of the Indiana State Bar Association, the Fellows of the Indiana State Bar Foundation, Tippecanoe County Bar Association, National Association of Women Judges, the Indiana University School of Law- Indianapolis Alumni Association and the Bankruptcy Section of the Indiana State Bar Association.

She has also been a Board member of the Appellate Judges Council of the American Bar Association, the Indianapolis Bar Association, the Indianapolis Bar Foundation, the Senior Council Section of the Indianapolis Bar Association, the Appellate Practice Section of the Indiana State Bar Association and the Appellate Judges Education Institute.

She was the moderator for the 2005-2006 and Chair for the 2006-2007 Indianapolis Bar Association’s Bar Leader Series, and is a member of the American Bar Foundation, American Judicature Society, a Master Fellow of the Indiana State Bar

- continued on p. 4

*The Honorable
Patricia A. Riley
(Jasper County)*

Patricia A. Riley was named to the Court of Appeals of Indiana by Governor Evan Bayh in January of 1994. A native of Rensselaer, Indiana, Judge Riley earned her bachelor’s degree from Indiana University-Bloomington in 1971 and her law degree from the Indiana University School of Law-Indianapolis in 1974.

Early in her career she served as a Deputy Prosecutor in Marion County and a public defender in Marion and Jasper counties before entering into private practice in Jasper County. She served as a judge of the Jasper Superior Court from 1990 to 1993. She is a former associate professor at St. Joseph’s College in Rensselaer and currently an adjunct professor at the Indiana University School of Law -Indianapolis.

Judge Riley’s legal memberships include the Indianapolis Bar Association, the Marion County Bar Association, and the Indiana State Bar Association, including co-chair of the ISBA’s Racial Diversity in the Profession Section; member, Women in the Law Committee; and member, Committee on Improvements in the Judicial System.

Judge Riley is the former chair of the Appellate Practice Section of the American Bar Association, and a member of the ABA’s Judicial Division International Courts Committee. She is a member of the Indiana Judges Association and the Board of Directors of the National Association of Women Judges.

Judge Riley’s civic associations include being on the Board of Directors of the Greater Indianapolis Health Foundation, Board of Directors of Global Peace Initiatives, Board of Directors and Treasurer of the Indiana University School of Law – Indianapolis Alumni Association, and a member of the Indianapolis Rotary Club.

She also has extensive international

- continued on p. 4

*The Honorable
Cale J. Bradford
(Marion County)*

Cale J. Bradford has broad experience in both the state and federal legal systems, including service as a Marion County deputy prosecutor, a public defender, a federal prosecutor, a trial court judge and an appellate court judge. In addition, he has six years’ experience in private legal practice.

He was appointed to the Court of Appeals of Indiana by Gov. Mitch Daniels and took his seat on Aug. 1, 2007. In that time, he has participated in more than 2,000 appellate decisions and more than 80 oral arguments. He has written more than 700 majority decisions, including 145 published opinions. Judge Bradford also led a successful effort to encourage the mediation of legal disputes pending before the Court of Appeals, and greatly contributed to creation of the Judicial Retention website that helps voters make informed decisions about Appellate Judges standing for retention election.

Before joining the Appeals Court, he served the people of Marion County for more than 10 years as Judge of the Marion Superior Court, including seven years in the criminal division and three in the civil division. Twice, his colleagues elected him as presiding judge of the Court.

During that tenure, Judge Bradford led two major initiatives that addressed critical criminal justice issues facing Marion County. He chaired the Marion County Criminal Justice Planning Council, which recommended improved responses to jail overcrowding, staffing and budgets. Those efforts led to the end of 30 years of federal oversight of the Marion County Jail and to security improvements at the county’s Juvenile Detention Center. He also led implementation of the Annie E. Casey Foundation Juvenile Detention Alternative Initiative, which resulted in a comprehensive yet responsible re-

- continued on p. 4

Every docket tells a story

Indiana Appellate Court Reports, Vols. 1, 2, and 3, include the complete written opinions of several hundred cases decided by the court in its first two terms. Naturally, the legal issues before the court were many and varied. But the underlying facts, taken together, paint a vivid picture of Indiana’s economy and society circa 1891 – the same year James Naismith invented basketball.

Agriculture was an economic mainstay, and even city residents maintained livestock. In *The Noblesville Gas and Improvement Company v. Teter*, the court affirmed damages of \$60 against the gas company for the death of Teter’s cow after it fell into an open gas line trench.

The opinion notes that by county and city ordinance, “cows were permitted to run at large within the city (of Noblesville) within the day time.”

Railroads were frequent litigants. Vols. 1, 2, and 3 record 34 railroad-related appeals, many involving damages to livestock, but also other issues. In a disputed-fare case from Greene County, the court ruled for the railroad but admonished the company “if unnecessary force was used in expelling the appellee from the train.”

Vol. 1 also includes two cases involving The Western Union Telegraph Co. One of them, *Western Union v. Trumbull*, cited an 1885 law that anticipates current legal and policy arguments about **Internet neutrality**.

The relevant passage of the law said that telegraph companies “shall in no manner discriminate in rates charged, or words or figures charged for, or manner or conditions of service between any of its patrons, but shall serve individuals, corporations and other telegraphic companies with impartiality.”

Then as now, fraught **domestic relations** occupied a significant share of the docket.

In *Story v. Story*, the court affirmed judgment against a father who’d been sued by his daughter for nonpayment of \$3 a week for house and farm work.

Marshall et al v. Bell involved a father’s promissory note for support and maintenance of a “bastard child.”

And in *Adams v. Main*, the court affirmed a trial court’s judgment that the appellant had alienated the affections of the appellee’s wife, even without proof of adultery. Such proof was not required, per the Appeals Court.

Contract disputes comprised a large part of the docket, too, and some describe prevailing wages and prices.

In *Greene v. McIntire et al*, the court affirmed judgment against New York City grain merchants who had contracted to buy 20,000 bushels of “grade No. 2 red wheat” from a Knox County farmer. Price: \$14,891, or 74 cents per bushel. (March 2014 wheat deliveries were trading at \$6.39/ bushel at the Chicago Board of Trade in December 2013.)

Orme v. Cooper, a Floyd County case, reported the value of 571 pounds of harness leather as \$114.20, or 20 cents per pound.

Mr. Trumbull, the appellant in the *Western Union* case cited above, paid 25 cents for his telegram.

Another case put the value of a Warren County house, lot, furnishings, and various materials and repairs at \$531.85.

Vols. 1, 2, and 3 include just **18 criminal appeals** (all others assigned to the Supreme Court), many involving crimes of vice such as gambling, liquor violations and prostitution (referred to in one case as “a certain house of ill fame” in Valparaiso).

The court affirmed the trial court’s decision 13 times, or 72 percent.